

## CHAPTER 3.3

### R-43 District - One Family Residence District (Created 2/26/03)

#### Sec. 3.3-1. Intent, R-43 District

The purpose of the R-43, One Family Residence District is to provide the opportunity for the development of quality housing products at the density envisioned by the Harris Creek Small Area Plan, adopted in February 2000. The development regulations in this chapter are designed to protect the existing rural nature of the area and encourage open space and aggregated green areas, thereby minimizing land disturbance and negative environmental impacts.

#### Sec. 3.3-2. Uses Permitted; R-43 District.

The following uses are permitted in all R-43 Districts:

- (1) One family dwellings, except that such dwellings may be altered to contain two (2) dwelling units with the following provisions:
  - (a) each dwelling unit shall be occupied by only one (1) family; and
  - (b) one (1) of the two (2) occupant families shall not include the owner or at least one (1) of the owners of the premises; and
  - (c) such use entails none but minor interior alterations to the dwelling, retaining the exterior appearance of a single family dwelling with a single outside entrance to both dwelling units.
- (2) Home Occupations as defined in Section 2-34.
- (3) Deleted (5/26/04)
- (4) Transformer stations, "static": normal distribution and transmission lines, poles and towers, pumping stations, water towers, structures necessary for the operation of a public utility (excluding power plants and gas

plants), or for the exercise of a government function, excluding all types of equipment storage, and penal or correctional institutions. Buildings to house public utility equipment, substations, water towers, and high voltage transmission lines shall be allowed by approval of the City Planning Commission pursuant to the provision of Section 15.2-2232 of the Code of Virginia, 1950, as amended.

- (5) An accessory building or structure or use, including a private pier, private garage, guest house, or servant quarters, provided no accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced and no accessory building shall be used unless the main building is completed and in use.
- (6) Temporary building and uses for construction purposes for a period not to exceed one (1) year.
- (7) Tourist homes/bed & breakfasts, subject to securing a Conditional Privilege.
- (8) Garage and yard sales, subject to securing a permit from the Zoning Administrator. Each permit secured will be accompanied by a non-refundable fee of five dollars (\$5.00) to cover processing and enforcement.
  - (a) No more than three (3) garage or yard sales shall be permitted during a calendar year at any one location. If, however, the identities of all the residents at that location change during the calendar year, the new residents may have three (3) garage or yard sales during the remainder of the calendar year.
  - (b) Such sale shall be limited to a period not to exceed three (3) consecutive days.
  - (c) Such permit shall be conspicuously displayed upon the premises during the time of sale.
- (9) Churches and accessory uses such as convents, Sunday schools, parish houses, and assembly rooms

(excluding rescue mission or temporary revival),  
provided:

- (a) For the above uses with a capacity within any single assembly area of no more than five hundred (500) people, no vehicular access shall be permitted from any residential street unless required for emergency vehicular access.
- (b) For the above uses with a capacity within any single assembly area of between five hundred one (501) and one thousand (1,000) people, no vehicular access shall be permitted from any residential or minor collector street unless required for emergency vehicular access.
- (c) For the above uses with a capacity within any single assembly area in excess of one thousand (1,000) people, no vehicular access shall be permitted from any residential, minor collector, or collector street unless required for emergency vehicular access.
- (d) Notwithstanding the provisions of Chapter 21, Nonconforming Uses, a church may make additions to its physical plant, without regard to any street access requirements or limitations, provided:
  - (aa) any addition or construction of additional buildings which increases sanctuary seating above the limits which would otherwise be imposed by street access requirements, shall occur only on the property owned in accordance with Section 57-12 of the Code of Virginia by the church at the time of adoption of this ordinance;
  - (bb) all additions or construction of additional buildings shall comply with the setback requirements in effect at the time of submission of the site plan for the addition or construction; and

- (cc) any addition or construction of additional buildings which increases sanctuary seating shall be accompanied by additional parking spaces for the new seating provided at the ratio required at the time of submission of the site plan for such addition or construction.
- (10) Country club.
- (11) Golf course (excluding driving tee or range, and miniature course) and including necessary related outbuildings.
- (12) Parks or playgrounds or community centers, subject to securing a Use Permit.
- (13) (a) Riding academy or boarding stables, provided that no more than four (4) animals be kept, stabled, or pastured for each acre of land so used, subject to securing a Conditional Privilege.
- (b) An accessory building, structure, or use, to include a private stable for the keeping of, or use of, horses, ponies, or similar animals customarily used for recreational purposes, provided:
  - (1) that such a stable or such use shall not be permitted on a lot containing less than one (1) acre; if two (2) or more such animals but not exceeding eight (8) are to be kept, a minimum lot area of two (2) acres shall be required; if more than eight (8) such animals are to be kept, a minimum lot area of three (3) acres shall be required; and
  - (2) that no structure used as a private stable, manure pit, or bin shall be located nearer than sixty (60) feet to any adjacent lot line, except where such lot line abuts a water

course at least sixty (60) feet in width.

- (14) College and universities, public libraries, or museums, owned and operated by a governmental agency; if privately owned, subject to securing a Use Permit.
- (15) Schools, including public, private, nursery and/or kindergarten, all subject to securing a Use Permit.
- (16) Day care 2, subject to securing a Special Exception from the Board of Zoning Appeals. Unless it makes a factual determination that a DC2 would be incompatible with the quiet enjoyment of surrounding properties, the Board shall issue the requested Special Exception. It may impose conditions governing factors related to the operation of said home, such as, but not limited to:
  - (a) hours of operation;
  - (b) location of play area and equipment;
  - (c) fencing of play area;
  - (d) limitations on signs;
  - (e) record-keeping requirements and inspection by authorized personnel.

If the Board denies an application for Special Exception, no further application for Special Exception pertaining to the same use on the same property will be accepted by the Board for one (1) year following the date of denial.

- (17) Day Care 3, subject to securing a Conditional Privilege.
- (18) Commercial communication tower subject to securing a Use Permit.
- (19) Noncommercial communication tower, up to seventy-five (75) feet in height. Such

tower height may be increased up to a total of one hundred twenty-five (125) feet subject to securing a Use Permit.

- (20) Adult care residence 2, subject to securing a Use Permit.
- (21) Commercial Building Mounted Antenna; provided the following:
  - (a) The building is not a single family dwelling;
  - (b) The minimum height of the building shall be no less than thirty-five (35) feet.
  - (c) The height of the antenna (including support structures) shall not exceed twenty-two (22) feet above the highest point of the building;
  - (d) The antenna and support structures are painted to that they are comparable to the primary building structure; and
  - (e) Intermodulation testing is coordinated through the Hampton Police Division demonstrating that the proposed antenna operation is designed in a manner to eliminate interference with public safety communications. Such testing shall also be required from each subsequent operator prior to any building permits to add or modify antennae. Should any equipment be found to interfere with public safety communications, the owner shall be responsible for the elimination of such interference.
- (22) Juvenile residence 2, subject to securing a Use Permit.
- (23) Shelter, subject to securing a Use Permit.

Sec. 3.3-3. Height Regulations; R-43 District.

No building in an R-43 District shall exceed thirty-five (35) feet in height; provided that the height limit for any building may be increased to not more than forty-five (45) feet when side yards of not less than twenty-five (25) feet each are provided.

Sec. 3.3-4. Lot Area; R-43 District.

- (1) No structure in an R-43 District shall be erected or placed on a lot or building site containing less than one (1) acre, with a minimum frontage of one hundred twenty (120) feet. A structure may be erected or placed on a substandard lot only if it complies with the provisions set forth in Section 18-22 hereof or subsection (2) below.
- (2) In an effort to promote cluster development, the required lot area and public street frontage can be reduced by-right. The minimum one (1) acre lot area in an R-43 District may be reduced to three-fourths ( $3/4$ ) acre for detached, single family dwellings so long as the remaining one-quarter ( $1/4$ ) acre per unit are maintained as commonly held green space. In this circumstance, the required street frontage may be reduced to one hundred (100) feet. Any cluster development that would result in lot sizes less than three-fourths ( $3/4$ ) acre, or include multi-family development, or utilize private streets will be subject to the provisions of Chapter 20, Article V, Use Permits for Residence-Open Space Variable Density Subdivisions (R-OS).

Sec. 3.3-5. Dwelling Area; R-43 District.

No dwelling in an R-43 District shall be erected having less than two thousand two hundred fifty (2,250) square feet of heated living area. However, if a lot is created in an R-43 District through

legal means other than City subdivision approval, any dwelling erected on such a lot shall have at least one thousand six hundred twenty (1,620) square feet of heated living area.

Sec. 3.3-6. Building Setback Regulations; R-43 District.

(1) Front Yard.

Every lot in an R-43 District shall have a front yard with a minimum depth of thirty (30) feet. However, any lot of record existing prior to February 26, 2003 shall be required to have a front yard equal to the average front yard in the block on which it is located. Such yards shall never be less than twenty (20) feet in depth, and shall not be required to be more than sixty (60) feet in depth.

Churches, as may be permitted in this section, shall be set back at least thirty (30) feet from the front property line; parking within this setback shall be prohibited.

(2) Side Yard.

The depth of the two side yards on any lot in an R-43 District shall total at least twenty-five percent (25%) of the lot width, measured at the front setback line. No individual side yard shall be less than ten percent (10%) of the lot width unless the total side yard depth is required to be twenty-five (25) feet or more. In that case, one (1) of the side yards may be reduced to ten (10) feet in depth, with the balance of the twenty-five percent (25%) located in the remaining side yard. Any side yard along the side street of a corner lot shall not be less than fifteen (15) feet.

Lots having a width of forty (40) feet or less and of record prior to January 27, 1960, which are developed in accordance



with Section 18-22(1), may have a side yard of not less than five (5) feet on each side.

Churches, as may be permitted in this section, shall provide side yards, the total of which shall be twenty-five percent (25%) of the lot width, with a minimum individual side yard of thirty (30) feet. Parking within ten (10) feet of the property line shall be prohibited.

(3) Rear Yard

Every lot in an R-43 District shall have a rear yard of at least twenty (20) feet in depth. If the total lot depth exceeds seventy-five (75) feet, additional rear yard depth is required. The rear yard shall be increased by an amount equal to one-third ( $1/3$ ) of the lot depth over seventy-five (75) feet, but in no case shall any rear yard be required to be more than thirty-five feet in depth. Rear yards shall extend to and be measured between the rearmost portion of the main building and the rear property line.

Churches, as may be permitted in this section, shall provide a rear yard of thirty (30) feet; parking within ten (10) feet of the property line shall be prohibited.

Sec. 3.3-7. Accessory Structures; R-43 District

In any R-43 District:

- (1) Accessory structures shall not cover more than twenty percent (20%) of the rear yard.
- (2) No accessory structure shall be located closer than five (5) feet to the rear property line.
- (3) No accessory structure shall be located closer than three (3) feet to the side property line.

Sec. 3.3-8. Off-Street Parking; R-43 District.

Uses permitted in any R-43 District shall provide garage or vehicular parking space as required in Chapter 19 hereof.

Sec. 3.3-9. Fences; R-43 District

Fences shall be permitted as provided in Chapter 18 hereof.

Sec. 3.3-10. Administrative Corrections; R-43 District.

In the initial establishment of the R-43 District by a comprehensive rezoning, should property be rezoned to the R-43 District that:

- (1) is entirely surrounded by higher density development and is of such limited acreage that development at the R-43 density is not feasible;
- (2) has already received preliminary subdivision approval or has been granted an R-OS Use Permit; or
- (3) is a development that is not required to undergo City subdivision approval and has infrastructure in place,

the Zoning Administrator may correct such error by returning the property to the zoning district in place immediately prior to the R-43 zoning.